

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2015-013746

09/02/2016

HONORABLE LORI HORN BUSTAMANTE

CLERK OF THE COURT
T. Nosker
Deputy

JOSEPH MOMOT, et al.

KRYSTLE DELGADO

v.

SILKWORTH MANOR L L C, et al.

ADAM E HAUF

TRIAL SETTING

Courtroom OCH 202

9:28 a.m. This is the time set for a telephonic Status Conference to set trial. Plaintiffs are represented by counsel, Krystle Delgado. Defendants are represented by counsel, Adam E. Hauf.

A record of the proceedings is made digitally in lieu of a court reporter.

Case status and scheduling are discussed.

IT IS ORDERED setting oral argument for **December 2, 2016 at 3:00 p.m. (60 minutes)** in this division on the following motions:

- Plaintiff's Motion for Partial Summary Judgment
- Defendants' Motion for Summary Judgment on All Defendants and Remaining Claims in Complaint

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HONORABLE LORI HORN BUSTAMANTE
JUDICIAL OFFICER OF THE SUPERIOR COURT
EAST COURT BUILDING
COURTROOM 811
101 W. JEFFERSON
PHOENIX, AZ 85003
(602) 506-0423

Each side will have 15 minutes per Motion.

IT IS FURTHER ORDERED:

Any motion or stipulation for continuance must be filed with the Court no later than four court days prior to the date set for hearing. After that date, no continuances will be granted except for extraordinary circumstances.

IT IS FURTHER ORDERED setting a 3-day Jury Trial on **January 30, 2017 at 8:45 a.m.** before:

HONORABLE LORI HORN BUSTAMANTE
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EAST COURT BUILDING
COURTROOM 811
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PHOENIX, AZ 85003
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This is a FIRM TRIAL setting. Trial days will be: January 30 – 31, 2017 and February 1, 2017

Trial days are normally 8:45 a.m. to 4:45 p.m., Monday through Thursday, with lunch from 12:00 p.m. to 1:30 p.m.

IT IS FURTHER ORDERED that a Final Trial Management Conference (FTMC) is set for **January 13, 2017 at 2:00 p.m. (1 hour)** in this division. Counsel and *pro per* parties shall appear *in person* for the conference.

Exhibits are due to the division by **January 13, 2017.**

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IT IS FURTHER ORDERED that the Joint Pretrial Statement (JPTS) in accordance with Rule 16(d), A.R.Civ. P., is due in this division by **5:00 p.m. January 6, 2017.**

NOTE: All court proceedings are recorded by audio and video method and not by a court reporter. Pursuant to Local Rule 2.22, if a party desires a court reporter for any proceeding in which a court reporter is not mandated by Arizona Supreme Court Rule 30, the party must submit a written request to the assigned judicial officer at least ten (10) judicial days in advance of the hearing, and must pay the authorized fee to the Clerk of the Court at least two (2) judicial days before the proceeding. The fee is \$140 for a half-day and \$280 for a full day.

9:38 a.m. Hearing concludes.

IT IS FURTHER ORDERED with the JPTS, Counsel shall deliver to this division, copies of the following:

A. A jointly-completed time and witness estimate list. (A sample form is incorporated in this order). The Court will use the list to predict the length of the trial for the jurors and to direct counsel to follow the trial time limits established. Any time limitation set will be reasonable presumptive limits subject to modification upon a showing of good cause. Counsel are reminded, that excluding breaks, a typical jury trial day is approximately six hours.

B. A joint set of agreed-upon preliminary and final jury instructions. This does not include Preliminary Civil RAJI or Standard Civil RAJI 1 – 9 which the Court will give without request. Unless counsel indicate they will be unable to do so, the proposed jury instructions will be submitted in hard copy in WORD.

C. Separate sets of requested instructions that have not been agreed upon. These jury instructions will also be submitted in hard copy in WORD. Please read *Rosen v. Knaub*, 175 Ariz. 329, 857 P.2d 381 (1993), and the RAJI Civil 4th Statement of Purpose and Approach before preparing the request for non-RAJI instructions.

D. Proposed Findings of Fact and Conclusions of Law, if a request has been or will be filed. The proposed Findings of Fact and Conclusions of Law will be submitted in hard copy in WORD. If proposed Findings of Fact and Conclusions of Law are not received, the request shall be deemed waived.

E. Proposed *voir dire* questions which the Court may give.

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F. In jury trial cases the parties shall jointly prepare a brief summary of the case which the Court will read to the jury at the commencement of *voir dire*.

G. The Court encourages use of juror notebooks in appropriate cases. Stipulating the contents in evidence is necessary. Key exhibits may be included, along with diagrams, photographs, timelines, non-argumentative summaries of positions of liability and damages and other information helpful to jurors.

H. Counsel are to identify in/with the memorandum all deposition or other transcribed testimony that may be offered at trial. The proposed testimony is to be identified by reference to page and line numbers. Objections, if any, to such testimony, and the reasons for such objections, are also to be set forth.

I. Any motions *in limine* shall be filed forty (40) days before the trial and such motions must meet the test of *State v. Superior Court*, 108 Ariz. 396, 397, 499 P.2d 152 (1972): "The primary purpose of a motion *in limine* is to avoid disclosing to the jury prejudicial matters which may compel a mistrial." See also, Ariz. Rules of Evidence, Rule 103(c). A written response to a motion *in limine* may be filed no later than thirty (30) days before trial. No replies shall be filed. The Court will decide motions *in limine* at the trial management conference. If oral argument is requested, oral argument will be held at the trial management conference.

J. All dispositive motions must be filed in accordance with the parties' scheduling order.

IT IS FURTHER ORDERED that counsel, at the FTMC, shall be prepared to discuss:

1. Time limits in *voir dire*, opening statements, examination of witnesses and closing arguments.
2. Stipulations for the foundation and authenticity of exhibits.
3. Jury instructions (preliminary and final), juror notebooks (counsel shall bring any proposed jury notebooks to the conference), mini-opening statements and *voir dire*.
4. Agreed-upon deposition summaries and excerpts from deposition transcripts and the editing of videotaped depositions.
5. Narrative summaries with brief excerpts of deposition question and answer testimony are preferred at trial rather than the reading in of pages of testimony.

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6. Use of "short trial" or summary jury trial.
7. Any special scheduling or equipment issues.
8. Status of settlement of the case.

L. COUNSEL WHO WILL BE THE TRIAL LAWYERS ON THE CASE ARE REQUIRED TO ATTEND THE FINAL TRIAL MANAGEMENT CONFERENCE.

M. FAILURE OF TRIAL COUNSEL TO ATTEND THE FINAL TRIAL MANAGEMENT CONFERENCE MAY RESULT IN PERSONAL SANCTIONS.

N. IF THE CASE IS SET FOR A JURY TRIAL, ONE DAY'S JURY FEES WILL BE ASSESSED UNLESS THE COURT IS NOTIFIED OF SETTLEMENT BEFORE 2:00 P.M. ON THE JUDICIAL DAY BEFORE TRIAL.

EXHIBIT GUIDELINES

- Exhibits shall be marked serially by number, plaintiff's first; defendant's exhibit numbers will begin where plaintiff's numbers end.
- Confer with the other party to eliminate duplicate exhibits before presenting to the clerk.
- Submit a written list or inventory describing each exhibit; descriptions should be concise and can be as simple as "letter," "e-mail," or "photo."
- Do not skip numbers, or describe exhibits as "blank" or "withdrawn"; do not "reserve" numbers for items not submitted to the clerk.
- Do not submit exhibits with subparts (e.g. Exhibit 1a, 1b, 1c);
- Staple or otherwise secure each individual exhibit so that pages do not become separated.
- Do not mark depositions as exhibits; original depositions may be submitted to the division clerk to be filed and will be available for use during the trial.
- Exhibits should be separated by a tabbed or colored sheet of paper with the exhibit number written on front.
- Each exhibit shall be clipped or bound if too large to be stapled.
- Counsel may also submit exhibits in a three-ring binder, each separated by a tabbed numbered divider.
- Please provide a separate copy of exhibits to the court to be referenced by the Judge during the trial.

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TIME ESTIMATES FOR TRIAL

Opening Statement and Closing Argument

PLAINTIFF'S OPENING STATEMENT	
DEFENDANT'S OPENING	
PLAINTIFF'S CLOSING	
DEFENDANT'S CLOSING	
PLAINTIFF'S REBUTTAL	

Estimate of Time for Witness Examination

Please provide day of trial and time slot anticipated for witnesses. The time slot options are:

- 8:45 a.m. – 10:15 a.m.
- 10:30 a.m. – 12:00 p.m.
- 1:30 p.m. – 3:00 p.m.
- 3:15 p.m. – 4:45 p.m.

DAY OF TRIAL	TIME SLOT	PLAINTIFF'S WITNESSES	TOTAL TIME (DIRECT, CROSS & REDIRECT)
Example:			
Monday	1:30 p.m. – 3:00 p.m.	Witness 1	30/20/10

Estimate of Time for Witness Examination

DAY OF TRIAL	TIME SLOT	DEFENDANT'S WITNESSES	TOTAL TIME (DIRECT, CROSS & REDIRECT)

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The foregoing are based on the best estimates of counsel of the time reasonably needed to complete the necessary examination of the witnesses listed.

Counsel for Plaintiff

Counsel for Defendant